

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
MONDAY, OCTOBER 17, 2005
AT 2:00 P.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Deputy Mayor Atkins at 2:06 p.m. The meeting was recessed at 3:24 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 3:29 p.m. with all Council Members present and District 1, District 8, and the Mayor vacant. The meeting was recessed by Deputy Mayor Atkins at 4:27 p.m. for the purpose of a break. Deputy Mayor Atkins reconvened the meeting at 4:36 p.m. with all Council Members present and District 1, District 8, and the Mayor vacant. Deputy Mayor Atkins adjourned the meeting at 5:40 p.m. into Closed Session at 9:00 a.m. on Tuesday, October 18, 2005, in the twelfth floor conference room to discuss existing and anticipated litigation.

ATTENDANCE DURING THE MEETING:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant
- Clerk-Maland (pr)

FILE LOCATION: MINUTES



ITEM-1:

ROLL CALL

Clerk Maland called the roll:

- (M) Mayor-vacant
- (1) Council Member Peters-present
- (2) Council District 2-vacant

- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council District 8-vacant

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by City Clerk Elizabeth S. Maland.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Madaffer.

FILE LOCATION: MINUTES



[ITEM-30:](#) Lyric Opera San Diego Day.

DEPUTY MAYOR ATKINS' RECOMMENDATION:

Adopt the following resolution:

(R-2006-307) ADOPTED AS RESOLUTION R-300934

Commending Lyric Opera San Diego for its commitment to the performing arts and wishing it well in its new home, the Stephen and Mary Birch North Park Theatre;

Proclaiming October 17, 2005, to be "Lyric Opera San Diego Day" in the City of San Diego.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 2:07 p.m. – 2:14 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Maienschein. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-31: Lung Cancer Awareness Month.

MAYOR PRO TEM MADAFFER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-214) ADOPTED AS RESOLUTION R-300935

Proclaiming the month of November 2005, to be "Lung Cancer Awareness Month" in the City of San Diego and challenging every citizen of this community to actively participate in efforts to raise awareness of lung cancer in the hope of saving lives.

FILE LOCATION:

AGENDA

COUNCIL ACTION:

(Time duration: 2:14 p.m. – 2:21 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Frye. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-32: George Saldamando Day.

COUNCILMEMBER MAIENSCHIN'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-318) ADOPTED AS RESOLUTION R-300936

Recognizing George Saldamando for his service and dedication to the citizens of San Diego;

Proclaiming Monday, October 17, 2005, to be "George Saldamando Day" in the City of San Diego.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:21 p.m. – 2:27 p.m.)

MOTION BY MAIENSCHIN TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-33: Approval of Council Minutes.

TODAY'S ACTION IS: APPROVED

Approval of Council Minutes for the meetings of:

09/12/2005
09/13/2005
09/19/2005
09/20/2005

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:07 p.m. – 2:07 p.m.)

MOTION BY YOUNG TO APPROVE. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

CLOSED SESSION ITEMS:

CS-1 In Re: Investigation into City Bond and Disclosure Practices

ACA assigned: D. McGrath

In closed session, outside counsel, Morgan Young and Bockius, will report on matters pertaining to investigation of the City's financial and pension difficulties.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:37 p.m. – 2:38 p.m.)

Deputy Mayor Atkins closed the Hearing

CS-2 *De Anza Cove Homeowners Association, Inc. v. City of San Diego*
San Diego Superior Court Case No. GIC 821191

DCA assigned: H. Wierman

This matter concerns the litigation filed by the De Anza Cove Homeowners Association against the City of San Diego seeking damages related to expiration of the prior lease and transition of the property from use as a mobile home park to park and recreational use. In closed session, the City Attorney will report on the status of the litigation, and other matters affecting the litigation.

CLOSED SESSION COMMENT:

CS-1: Comment by Margie Perry regarding a status conference about De Anza Cove, tenant impact reports, and City funds.

CS-2: Comment by Ron Boshun regarding issues surrounding De Anza Cove and City Council approval for building large hotels.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:38 p.m. – 2:47 p.m.)

Deputy Mayor Atkins closed the Hearing

CS-3 *Sainz v. City of San Diego, et al.*

San Diego Superior Court Case No. GIC 852776

ACA assigned: K. Katz

This is an employment related case filed against certain City officials and employees. In closed session, Richard Paul, Esq. of Paul Plevin & Associates will seek retention and brief the Mayor and City Council on the facts of the case and provide an initial assessment of the City's liability.

Deputy Mayor Atkins closed the Hearing

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:47 p.m. – 2:47 p.m.)

CS-4 *McGuigan v. City of San Diego*
San Diego Superior Court No. GIC849883

ACA assigned: D. McGrath

This lawsuit was filed on behalf of a retired City employee against the City of San Diego requesting that the Court order the City to immediately pay all past unfunded pension liability to the retirement system. In closed session, the City Attorney will brief the City Council on plaintiff's settlement offer.

CLOSED SESSION COMMENT 2:

CS-1: Comment by Ann Smith regarding issues of the retirement system, and transfer of land liabilities.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 2:47 p.m. – 2:54 p.m.)

Deputy Mayor Atkins closed the Hearing

- * ITEM-50: Agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Herbert Ibarra Elementary School.

(Mid City (City Heights) Community Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-24) INTRODUCED, TO BE ADOPTED ON MONDAY,
OCTOBER 31, 2005

Introduction of an Ordinance authorizing the City Manager to execute an agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Herbert Ibarra Elementary School.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

Herbert Ibarra Elementary School is located at 4877 Orange Avenue in the City Heights Community. The proposed joint use agreement with the San Diego Unified School District (SDUSD) would provide for an additional 1.94 acres of turf fields, drinking fountain and parking. The City Heights Community Planning Area is park deficient, therefore, this project will help to satisfy the community's and SDUSD's recreational and athletic programmatic needs.

The City and SDUSD have been cooperating in the use of numerous recreational facilities in accordance with the City- SDUSD Recreation Agreement of September 1948, and the Memorandum of Understanding Between the City and SDUSD for the Development and Maintenance of Joint Use Facilities (MOU) adopted by the San Diego City Council on October 7, 2002 (Resolution No. 297149) and by the SDUSD's Board of Education on October 8, 2002. The proposed joint use agreement meets the terms and conditions of these documents.

The proposed turf fields at Herbert Ibarra Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of irrigated and turfed multi-use playing fields. Funding for design and construction of the turf fields will be provided by the SDUSD as a part of the Proposition MM measure.

Since the SDUSD is providing the land and development of the joint use fields, the City will be responsible for the operation and maintenance until parity is reached, as outlined in this joint use agreement.

FISCAL IMPACT:

The joint use fields will cost approximately \$25,375 in annual operating costs. The joint use fields are anticipated to be open in Fall 2005. New operation and maintenance funding was not allotted in the FY06 budget. Therefore, the annual maintenance costs are proposed to come from reallocating existing Park and Recreation Department Community Parks II operating budget. These demands will require staff from surrounding park sites to do maintenance at the new joint use area.

Herring/Medina/AP

Staff: A. Penner – (619) 525-8223

Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-51: Agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Chollas-Mead Elementary School.

(Southeastern San Diego Community Area. District 4.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-23) INTRODUCED, TO BE ADOPTED ON MONDAY,
OCTOBER 31, 2005

Introduction of an Ordinance authorizing the City Manager to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School

District (SDUSD) for the construction, operation, maintenance, and lease of joint use facilities at Chollas-Mead Elementary School, under the terms and conditions set forth in that agreement.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

Chollas-Mead Elementary School is located at 401 45th Street in the Southeastern San Diego Community. The proposed joint use agreement with the San Diego Unified School District (SDUSD) would provide for an additional 1.33 acres of turf fields and parking at Chollas Elementary School and 1.45 acres of turf fields at Mead Elementary School. The Southeastern San Diego Community Planning Area is park deficient, therefore, this project will help to satisfy the community's and SDUSD's recreational and athletic programmatic needs.

The City and SDUSD have been cooperating in the use of numerous recreational facilities in accordance with the City-SDUSD Recreation Agreement of September 1948, and the Memorandum of Understanding Between the City and SDUSD for the Development and Maintenance of Joint Use Facilities (MOU) adopted by the San Diego City Council on October 7, 2002 (Resolution No. 297149) and by the SDUSD's Board of Education on October 8, 2002. The proposed joint use agreement meets the terms and conditions of these documents.

The proposed turf fields at Chollas-Mead Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of irrigated and turfed multi-use playing fields. The SDUSD is developing the two fields.

Funding for design and construction of the turf fields will be provided by the SDUSD as a part of the Proposition MM measure. Since the SDUSD is providing the land and development of the joint use fields, the City will be responsible for the operation and maintenance until parity is reached, as outlined in this joint use agreement.

FISCAL IMPACT:

The joint use fields will cost approximately \$34,750 in annual operating costs. The joint use fields are anticipated to be open in Spring 2006. New operation and maintenance funding was not allotted in the FY 2006 budget. Therefore, the annual maintenance costs are proposed to come from reallocating existing Park and Recreation Department Community Parks II operating budget. These demands will require staff from surrounding park sites to do maintenance at the new joint use area.

Herring/Medina/AP

Staff: A. Penner – (619) 525-8223

Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-52: Agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Kennedy Porter Elementary School.

(Southeastern San Diego Community Area. District 4.)

CITY MANAGER’S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-25) INTRODUCED, TO BE ADOPTED ON MONDAY,
OCTOBER 31, 2005

Introduction of an Ordinance authorizing the City Manager to execute, for and on behalf of the City of San Diego, an agreement with the San Diego Unified School District (SDUSD) for the construction, operation, maintenance, and lease of joint use facilities at Kennedy Porter Elementary School, under the terms and conditions set forth in that agreement.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

Kennedy Porter Elementary School is located at 445 South 47th Street in the Southeastern San Diego Community. The proposed joint use agreement with the San Diego Unified School District (SDUSD) would provide for an additional 2.2 acres of turf fields, hard court and parking. The Southeastern San Diego Community Planning Area is park deficient, therefore, this project will help to satisfy the community's and SDUSD's recreational and athletic programmatic needs.

The City and SDUSD have been cooperating in the use of numerous recreational facilities in accordance with the City-SDUSD Recreation Agreement of September 1948, and the Memorandum of Understanding Between the City and SDUSD for the Development and Maintenance of Joint Use Facilities (MOU) adopted by the San Diego City Council on October 7, 2002 (Resolution No. 297149) and by the SDUSD's Board of Education on October 8, 2002. The proposed joint use agreement meets the terms and conditions of these documents.

The proposed turf fields at Kennedy Porter Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of irrigated and turfed multi-use playing fields. The SDUSD is developing the turf fields.

Funding for design and construction of the turf fields will be provided by the SDUSD as a part of the Proposition MM measure. Since the SDUSD is providing the land and development of the joint use fields, the City will be responsible for the operation and maintenance until parity is reached, as outlined in this joint use agreement.

FISCAL IMPACT:

The joint use fields will cost approximately \$18,700 in annual operating costs. The fields will be open to the public in FY 2007, therefore this funding will be requested during the FY 2007 budget process.

Herring/Medina/AP

Staff: A. Penner – (619) 525-8223

Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-53: Agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Laura Rodriguez Elementary School.

(Southeastern San Diego Community Area. District 8.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-26) INTRODUCED, TO BE ADOPTED ON MONDAY,
OCTOBER 31, 2005

Introduction of an Ordinance authorizing the City Manager to execute an agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Laura Rodriguez Elementary School.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

Laura Rodriguez Elementary School is located at corner of 32nd Street and Martin Avenue in the Southeastern San Diego Community. The proposed joint use agreement with the San Diego Unified School District (SDUSD) would provide for an additional 1.78 acres of turf fields, hard court and children's play area. The Southeastern San Diego Community Planning Area is park deficient, therefore, this project will help to satisfy the community's and SDUSD's recreational and athletic programmatic needs.

The City and SDUSD have been cooperating in the use of numerous recreational facilities in accordance with the City-SDUSD Recreation Agreement of September 1948, and the Memorandum of Understanding between the City and SDUSD for the Development and Maintenance of Joint Use Facilities (MOU) adopted by the San Diego City Council on October 7, 2002 (Resolution No. 297149) and by the SDUSD's Board of Education on October 8, 2002. The proposed joint use agreement meets the terms and conditions of these documents.

The proposed turf fields at Laura Rodriguez Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of irrigated and turfed multi-use playing fields. Funding for design and construction of the turf fields will be provided by the SDUSD as a part of the Proposition MM measure.

Since the SDUSD is providing the land and development of the joint use fields, the City will be responsible for the operation and maintenance until parity is reached, as outlined in this joint use agreement.

FISCAL IMPACT:

The joint use fields will cost approximately \$23,750 in annual operating costs. The fields will be open to the public in FY07, therefore this funding will be requested during the FY07 budget process.

Herring/Medina/AP

Staff: A. Penner – (619) 525-8223

Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-54: Agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Normal Heights Elementary School.

(Mid City (Normal Heights) Community Area. District 3.)

CITY MANAGER'S RECOMMENDATION:

Introduce the following ordinance:

(O-2006-27) INTRODUCED, TO BE ADOPTED ON MONDAY,
OCTOBER 31, 2005

Introduction of an Ordinance authorizing the City Manager to execute an agreement with the San Diego Unified School District (SDUSD) for the Construction, Operation, Maintenance and Lease of Joint Use Facilities at Normal Heights Elementary School.

NOTE: 6 votes required pursuant to Section 99 of the City Charter.

CITY MANAGER SUPPORTING INFORMATION:

Normal Heights Elementary School is located at 3750 Ward Road in the Mid City (Normal Heights) Community. The proposed joint use agreement with the San Diego Unified School District (SDUSD) would provide for an additional 0.75 acres of turf fields, 1.62 acres of open play area, a single stall restroom and parking. The Normal Heights Community Planning Area is park deficient, therefore, this project will help to satisfy the community's and SDUSD's recreational and athletic programmatic needs.

The City and SDUSD have been cooperating in the use of numerous recreational facilities in accordance with the City-SDUSD Recreation Agreement of September 1948, and the Memorandum of Understanding Between the City and SDUSD for the Development and Maintenance of Joint Use Facilities (MOU) adopted by the San Diego City Council on October 7, 2002 (Resolution No. 297149) and by the SDUSD's Board of Education on October 8, 2002. The proposed joint use agreement meets the terms and conditions of these documents.

The proposed turf fields at Normal Heights Elementary School will be developed and maintained through this twenty-five (25) year no fee lease and joint use agreement with the San Diego Unified School District (SDUSD). The terms of the agreement allow for the development, operation, and maintenance of irrigated and turfed multi-use playing fields, an open play area, single stall restroom and parking.

Funding for design and construction of the turf fields will be provided by the SDUSD as a part of the Proposition MM measure. Since the SDUSD is providing the land and development of the joint use fields, the City will be responsible for the operation and maintenance until parity is reached, as outlined in this joint use agreement.

FISCAL IMPACT:

The joint use fields will cost approximately \$34,375 in annual operating costs. The fields will be open to the public in FY07, therefore this funding will be requested during the FY07 budget process.

Herring/Medina/AP

Staff: A. Pendera – (619) 525-8223
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

* ITEM-100: Grant Application to the California Integrated Waste Management Board to Address Waste Tire Issues Along the California-Mexico Border Zone.

(San Ysidro, Tijuana River Valley, and Otay Mesa Community Areas. District 8.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-193) ADOPTED AS RESOLUTION R-300937

Authorizing the City Manager, or his designee, to accept the \$50,000 Reallocation Grant awarded to the City’s Solid Waste Local Enforcement Agency;

Authorizing the City Auditor and Comptroller to create a separate fund for the grant;

Authorizing the City Manager, or his designee, to conduct all negotiations, and to execute and submit all documents, including, but not limited to, all

applications, grant agreements, contracts, amendments, and payment requests, which may be necessary to secure and expend the Grant funds, and to otherwise carry out and administer the City's obligations, responsibilities, and duties under the terms of the Grant.

CITY MANAGER SUPPORTING INFORMATION:

On May 11, 2005, the California Integrated Waste Management Board (CIWMB) approved the reallocation of \$50,000 from the California Tire Recycling Management Fund to the City's Solid Waste Local Enforcement Agency (LEA) to address waste tire issues along the California/Mexico Border zone for a two year period, from June 30, 2005 through June 30, 2007. LEA was awarded these unsolicited funds, in part, because of LEA's past performance in executing Waste Tire Enforcement Programs and Waste Tire Cleanup Grants in the Tijuana River Valley.

The Reallocation Grant requires that the LEA develop and implement a program to actively work with the City of Tijuana, Mexican and US used and waste tire haulers, and Spanish speaking waste tire haulers in San Diego, to lessen the impacts of illegally dumped waste tires in the border region shared by San Diego and Tijuana. Specifically, the grant requires each of the following:

- 1) Provide environmental education and outreach to Mexican officials and the regulated community on both sides of the border. Training topics would include environmental health issues related to used and waste tire handling, as well as regulatory requirements in California and Baja California. Academics from both sides of the border would be consulted.
- 2) Research regulatory requirements on both sides of the border, the existing waste management infrastructure for handling waste tires, and enforcement strategies. Seek ways to improve recycling opportunities and illegal tire disposal.
- 3) Share information about uses for used and waste tires, and discuss available technologies to recycle used and waste tires into marketable products, including rubberized asphalt concrete.
- 4) Establish an accounting system and other administrative procedures for conducting the grant program.

The interactions between San Diego and Tijuana would be coordinated through the Office of Binational Affairs (OBA). The OBA would also assist LEA staff in the development of programs and reports required under the grant.

No matching funds are required.

Oppenheim/Halbert/WEP

Staff: William Prinz – (619) 533-3696
Michael D. Neumeyer – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

- * ITEM-101: Grant Application to Highway Bridge Rehabilitation and Replacement (HBRR) and Inviting Bids for the Seismic Retrofit of the Garnet Avenue Bridge Over Rose Canyon Creek Project (Bridge No. 57C-312).

(Pacific Beach Community Area. District 2.)

CITY MANAGER’S RECOMMENDATION:

Adopt the following resolution:

(R-2006-280) ADOPTED AS RESOLUTION R-300938

Authorizing the City Manager to apply for Highway Bridge Rehabilitation and Replacement (HBRR) grant funding for the purpose of constructing the Seismic Retrofit of Garnet Avenue Bridge over Rose Creek Project and accepting the Program Supplement to Local Agency-State Agreement for Federal Aid Project No. 11-5004 (151), for an amount of \$467,743;

Authorizing the City Auditor and Comptroller to increase the Fiscal Year 2006 Capital Improvements Program Budget in CIP-53-037.0, Earthquake Restrainers for Bridges, Fund 38739, Highway Bridge Rehabilitation and Replacement, by \$467,743;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$467,743 from CIP-53-037.0, Earthquake Restrainers for Bridges, Fund 38739, Highway Bridge Rehabilitation and Replacement, for the

purpose of constructing the Seismic Retrofit of Garnet Avenue Bridge over Rose Canyon Creek, contingent upon receipt of an FNM-76 (Version E-76) Caltrans Funding Authorization, and the City Auditor and Comptroller first certifying that the funds are, or will be, on deposit in the City Treasury;

Approving the plans and specifications for the construction of Seismic Retrofit of Garnet Avenue Bridge over Rose Canyon, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the City Manager shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement, on Work Order No. 530389;

Authorizing the City Manager to advertise for bids and award the project in the future to the lowest and responsible bidder for the Seismic Retrofit of Garnet Avenue Bridge over Rose Canyon Creek, contingent upon the City Auditor and Comptroller first certifying that funds are on deposit with the City Treasury;

Authorizing the City Auditor and Comptroller to establish a separate interest-bearing fund for the grant;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring this activity is not a separate project for purposes of review under the California Environmental Quality Act (CEQA), but a subsequent discretionary approval under a previously approved project covered under Negative Declaration LDR No. 98-0284. (BID-K062072)

CITY MANAGER SUPPORTING INFORMATION:

The Garnet Avenue Bridge over Rose Canyon Creek was built in 1939 and has been identified as a seismically deficient bridge. This Retrofit project would bring the bridge to the current design standards. It involves constructing two 42-foot deep, 5-foot diameter cast-in-drilled-hole piles at the southeast and southwest sides of the bridge and installing seismic bracing underneath the abutment walls. The total construction cost is 80% Federally Funded by Highway Bridges Rehabilitation and Replacement (HBRR) Program and 20% local match.

This action will authorize the appropriation and expenditures of an additional \$467,743, in Federal grant funding. It will also authorize to advertise for bid, and award for the construction of the project.

FISCAL IMPACT:

The estimated total project cost is \$987,609; of this amount \$519,866, has been previously authorized. The additional funding required for this project is \$467,743, which will be available in Fund 38739 Highway Bridge Rehabilitation and Replacement (HBRR) Program.

Total Estimated Project Cost:	\$987,609
Federal HBRR Funds:	\$703,018 (previously accepted \$235,275)
City TransNet Funds:	\$284,591

Mendes/Boekamp/DZ

Staff: Dave Zoumaras – (619) 533-3138
Jeremy A. Jung – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:28 p.m. – 2:36 p.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-102: Retention of Outside Counsel with Duckor, Spradling, Metzger & Wynne for Additional Funds In The Matter To De Anza Harbor and Resort.

(Mission Bay Community Area. District 6, All.)

CITY ATTORNEY'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-194) ADOPTED AS RESOLUTION R-300939

Authorizing and directing the City Manager to execute the fee agreement with Duckor, Spradling, Metzger & Wynne for an additional amount not to exceed \$100,000.

SUPPORTING INFORMATION:

On September 12, 2003, the City retained attorney Anna F. Roppo of Higgs, Fletcher & Mack for legal services in connection with the transition of De Anza Harbor Resort from a privately operated mobile home to City-operated park and recreation use, including defense of De Anza Homeowners Association, Inc. (De Anza HOA case) v. City of San Diego, San Diego Superior Court Case No. GIC 821191. The City spent \$200,709.89 of \$250,000 authorized for legal services under this original contract. Ms. Roppo joined the law firm of Duckor, Spradling & Metzger (now, Duckor, Spradling, Metzger & Wynne) effective April 26, 2004. On September 7, 2004, the City Council authorized continued legal services from that firm in an amount not to exceed \$300,000.

In addition to the defense of the City and prosecution of the City's Counterclaim in the De Anza HOA case, the services provided by Duckor, Spradling, Metzger & Wynne include the processing and filing of unlawful detainer actions against residents delinquent in rent, processing and filing abandonment proceedings for abandoned mobile homes, coordinating settlement agreements with residents, addressing residents', opposing counsel's, and the court's concerns regarding the infrastructure issues (sewer, gas, and water lines and trees), and coordinating with the City Attorney's Office on the action filed by the City against the prior lessee, De Anza Harbor Resort & Golf. Approximately 51% of the total spent to date for legal expenses had been for the defense of the De Anza HOA case and approximately 49% has been spent on issues related to property management support. In March 2005, staff recommended that the funding source for the defense of De Anza HOA case continue to be the Public Liability Fund, but that the expenses related to property management support be billed separately and funded out of the De Anza Operating Fund.

On March 15, 2005, City Council authorized continued legal services in the amount of \$300,000 with \$150,000 funded from the Public Liability Fund and \$150,000 funded from the De Anza Operating Fund. To date, \$137,359.23 has been authorized from the Public Liability Fund and \$23,102 has been authorized from the De Anza Operating Fund.

This action seeks an additional amount not to exceed \$100,000 from the Public Liability Fund for continued representation of the City by Duckor, Spradling, Metzger & Wynne, bringing the total amount of funds authorized for this contract to \$900,709.89.

Ewell/Katz/HW

Aud. Cert. 2501006.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:56 p.m. – 3:02 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-103: Revisions to Council Policy 600-24 Pertaining to Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups.

(See City Manager Reports CMR-05-145 and CMR-04-241 Revised; and memorandum from S. Gail Goldberg dated 10/7/2005.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2006-256) ADOPTED AS RESOLUTION R-300940

Amending Council Policy 600-24 titled “Standard Operating Procedures and Responsibilities of Recognized Community Planning Groups”;

Instructing the City Clerk to add the aforesaid to the Council Policy Manual.

LAND USE AND HOUSING COMMITTEE'S RECOMMENDATION:

On 6/15/2005, LU&H voted 4 to 0 to approve the City Manager's recommendation with the following direction to staff:

- 1) Provide definitions in Article III, Section 3 for the terms “property owner” [subsection (1)] and “resident” [subsection (2)]; and,
- 2) Provide a copy of the Administrative Guidelines at the time the City Council considers Council Policy 600-24.

(Councilmembers Peters, Atkins, Young, and Frye voted yea. Councilmember Inzunza not present.)

SUPPORTING INFORMATION:

Refer to City Manager Reports CMR-04-241 and CMR 05-145 for content and process discussion.

On June 15, 2005, the Land Use and Housing Committee recommended approval, on a 4-0 vote, of the proposed changes to the Council Policy, with the inclusions of definitions in Article III, Section 3, for the terms, “property owner” and “resident.” Descriptions of these terms have been added to this section.

The revisions to Council Policy 600-24 have been approved by the Community Planners Committee, and the revisions directed by the Land Use and Housing Committee have been approved by the Committee Planners Committee Subcommittee on Council Policy 600-24.

For information purposes only, copies of the Administrative Guidelines will have been distributed to members of the City Council, prior to this hearing. In addition, the same version of the Administrative Guidelines will have been posted to the Planning Department’s website for review by all Council-recognized community planning groups and members of the public.

FISCAL IMPACT:

None with this action.

Oppenheim/Goldberg/BAM

Staff: Betsy McCullough – (619) 236-6139
Shannon M. Thomas – Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:02 p.m. – 3:24 p.m.)

MOTION BY PETERS TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-150: Implementing Ordinances for the Transition to the Mayor - Council Form of Governance.

(See Strong Mayor-Strong Council Transition Committee Reports dated 10/7/2005 and memorandum from the City Attorney dated 10/7/2005, these were not available at Committee. See Strong Mayor-Strong Council Transition Committee Report dated 9/27/2005; memorandum from the City Attorney dated 9/22/2005 and Permanent Rules of Council dated 9/21/2005.)

TODAY'S ACTIONS ARE:

Introduce the following ordinances:

Subitem-A: (O-2006-43) INTRODUCED AS AMENDED, TO BE
ADOPTED ON MONDAY, OCTOBER 31,
2005

Introduction of an Ordinance amending Chapter 2, Article 2, Division 1 of the San Diego Municipal Code by adding new Section 22.0101.5, pertaining to the Permanent Rules of the Council under the Mayor-Council Trial Form of Governance and suspending Section 22.0101.

Subitem-B: (O-2006-45) INTRODUCED, TO BE ADOPTED ON
MONDAY, OCTOBER 31, 2005

Introduction of an Ordinance amending Chapter 1, Article 1, Division 1 of the San Diego Municipal Code by adding Section 11.0102.5, relating to the change in the Mayor's authority, powers, and responsibilities under the Mayor-Council Trial Form of Governance.

Subitem-C: (O-2006-44) INTRODUCED AS AMENDED, TO BE
ADOPTED ON MONDAY, OCTOBER 31, 2005

Introduction of an Ordinance amending Chapter 2, Article 2, Division 18 of the San Diego Municipal Code by amending Section 22.1801(b) and amending Chapter 2, Article 2 of the San Diego Municipal Code by adding Division 23 and Sections 22.2301, 22.2302, 22.2303, 22.2304, 22.2305, and 22.2306, all relating to the creation of the Office of Independent Budget Analyst.

**STRONG MAYOR – STRONG COUNCIL TRANSITION COMMITTEE’S
RECOMMENDATION:**

On 9/28/2005, MCT voted 5-0 to approve Chair’s recommendation No. 1 eliminating the ability of 2 members of a committee to force an item to be docketed at a committee; and clarifying that the Committee Chair retains the discretion of when and whether to docket an item at the committee he or she chairs except that when an item is referred to a committee by majority vote of Council or when an ordinance or resolution is referred to a committee, the chair is required to docket the item within 120 days unless modified by the Council.

(Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea. Deputy Mayor Atkins not present. District 2-vacant and District 8-vacant.)

On 9/28/2005, MCT voted 5-0 to approve the Chair’s recommendation No. 2 recommending approval of ordinances establishing the IBA and making global changes to the San Diego Municipal Code to implement the Mayor-Council form of government.

(Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea. Deputy Mayor Atkins not present. District 2-vacant and District 8-vacant.)

On 9/28/2005, MCT voted 3-2 (Failed) banning any person from being the IBA or working in the Office of Independent Budget Analyst who has worked for a Councilmember during the preceding 8 years. (Councilmembers Young, Maienschein, and Frye voted yea.

(Councilmembers Peters and Madaffer voted nay. Deputy Mayor Atkins not present. District 2-vacant and District 8-vacant.)

Note: There was common concurrence that this issue should be revisited when City Council looks at this ordinance with consideration of various alternatives including shortening the period of prohibition or prohibiting only former employees of sitting Councilmembers.

On 9/28/2005, MCT voted 5-0 to add to Section 22.2304 that the duties of the IBA shall include making recommendations to the City Council.

(Councilmembers Peters, Young, Maienschein, Frye, and Madaffer voted yea. Deputy Mayor Atkins not present. District 2-vacant and District 8-vacant.)

FILE LOCATION:

SUBITEMS: A, B, & C: NONE

COUNCIL ACTION:

(Time duration: 4:36 p.m. – 5:38 p.m.)

MOTION BY PETERS TO INTRODUCE THE ORDINANCE IN SUBITEM A AS AMENDED TO REFLECT THE REMOVAL OF THE SECOND SENTENCE OF SECTION 1.5 THAT READS: “THE MAYOR MAY, ON EXTRAORDINARY OCCASIONS, ALSO CALL A SPECIAL MEETING OF THE COUNCIL,” AND TO REFER THAT ISSUE TO THE CHARTER REVISION PROCESS.

TO ADD A FIFTH MEMBER TO THE COMMITTEE ON RULES, OPEN GOVERNMENT AND INTERGOVERNMENTAL RELATIONS UNDER RULE 6.11.1 OF THE ORDINANCE. TO ADD A FIFTH MEMBER TO THE COMMITTEE ON BUDGET AND FINANCE UNDER RULE 6.11.5 OF THE ORDINANCE.

TO INTRODUCE THE ORDINANCE IN SUBITEM B, AND TO INTRODUCE AS AMENDED THE ORDINANCE IN SUBITEM C TO REFLECT THE LANGUAGE ADDED TO SECTION 22.2303 AND THAT NOW READS: "NO PERSON SHALL BE ELIGIBLE TO SERVE AS THE INDEPENDENT BUDGET ANALYST OR A MEMBER OF THE STAFF OF THE INDEPENDENT BUDGET ANALYST WHO, DURING THE PREVIOUS EIGHT YEARS, HAS SERVED ON THE STAFF OF A CITY OF SAN DIEGO MAYOR OR CITY COUNCILMEMBER, OR HAS BEEN A REGISTERED LOBBYIST WITH THE CITY OF SAN DIEGO." Second by Madaffer. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-200: Rancho Encantada/Stonebridge Estates Maintenance Assessment District Formation.

(Rancho Encantada Community Area. District 7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-269) ADOPTED AS RESOLUTION R-300942

Resolution of Intention to form the Rancho Encantada/Stonebridge Estates Maintenance Assessment District and to levy and collect Fiscal Year 2007 annual assessments on Rancho Encantada/Stonebridge Estates Maintenance Assessment District.

CITY MANAGER SUPPORTING INFORMATION:

This action authorizes the ballot proceedings to form the Rancho Encantada/Stonebridge Estates Maintenance Assessment District (District). The District is located in the Rancho Encantada Community Planning Area and is bounded by the City of Poway to the North, Marine Corps Air Station Miramar to the south, the communities of Scripps-Miramar

Ranch and Miramar Ranch North to the west, and Sycamore Canyon County Open Space to the east. Two parks are proposed to be constructed as part of this development: Stonebridge Estates Park and Sycamore Canyon Park.

The purpose of the District is to fund the maintenance of improvements associated with the second park, Sycamore Canyon Park, which has six useable acres. Sycamore Canyon Park, former known as Rancho Encantada Park #2, will provide for a multi-use sports field, ballfield, comfort station, turf area, walking path, tot lots, and other park amenities. Since Rancho Encantada and surrounding communities have a surplus of useable park acreage, it is proposed that this District be formed to maintain this special benefit to the community. On July 21, 2005, the Park and Recreation Board approved funding the park as a new Maintenance Assessment District. The park is schedule to open in February 2007 and the District will take over maintenance of improvements in May 2007 or upon acceptance by the City.

EXPENSES		
Personnel	\$3,072	\$18,430
Contract	\$14,412	\$86,475
Incidentals	\$55,817	\$34,900
Energy and Utilities	<u>\$5,230</u>	<u>\$31,380</u>
TOTAL EXPENSES	\$78,531	\$171,185
REVENUES		
Assessments	\$187,057	\$187,057
Interest	<u>\$0</u>	<u>\$10,000</u>
TOTAL REVENUE	\$187,057	\$197,057
RESERVES	\$108,526	\$25,872

The proposed annual assessments were calculated by an assessment engineer for parcels within the District and are based on each parcel's equivalent benefit unit (EBU), which is equivalent to one single family dwelling unit. The proposed rate would be \$204 per EBU.

FISCAL IMPACT:

Approximately \$187,057 will be assessed to the property owners within the District in FY 2007. The proposed Fiscal Year 2007 assessments and maximum authorized assessments are permitted to increase annually at a rate equivalent to the San Diego Consumer Price Index – Urban (SDCPI-U) plus 3%. Since there are no medians to be maintained, there is no impact to the Gas Tax Fund. The two proposed parks within Stonebridge Estates consist of three parcels that are owned by the City and will be assessed \$150 in Fiscal Year 2007. This assessment will be paid from the General Fund, Citywide Program Expenditures.

Oppenheim/Medina/AWF

Staff: Andrew Field – (619) 533-6778

FILE LOCATION: M 506 (34)

COUNCIL ACTION: (Time duration: 2:56 p.m. – 2:56 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Peters. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.



ITEM-201: Pacific Highlands Ranch Maintenance Assessment District Formation.

(Pacific Highlands Ranch Community Area. District 1.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-273) RETURNED TO THE CITY MANAGER

Resolution of Intention to form the Pacific Highlands Ranch Maintenance Assessment District and to levy and collect Fiscal Year 2006 Annual Assessments on Pacific Highlands Ranch Maintenance Assessment District.

CITY MANAGER SUPPORTING INFORMATION:

This action authorizes the ballot proceedings to form the Pacific Highlands Ranch Maintenance Assessment District (District). The District is in the Pacific Highlands Ranch Community Planning Area and is located east of Carmel Valley, west of Torrey Highlands, north of Del Mar Mesa, and south of unincorporated San Diego County. The purpose of the District is to fund the maintenance of enhanced landscaping and street lighting improvements located in public rights-of-way, medians, parkways and dedicated easements. The District will take over certain landscaped area starting in Fiscal Year 2007; the streetlights in the arterials will be taken over in Fiscal Year 2006.

	FY 2006	Maximum Authorized
EXPENSES		
Personnel	\$0	\$36,467
Contractual	\$45,604	\$328,925
Incidental	\$40,000	\$74,332
Outlay	\$0	\$0
Streetlight Improvements	\$20,745	\$67,181
Energy & Utilities	<u>\$0</u>	<u>\$43,113</u>
TOTAL EXPENSES	\$106,349	\$550,018
REVENUES		
Assessments	\$118,696	\$1,470,358
City Contributions - Gas Tax	\$0	\$134,656
Interest	<u>\$0</u>	<u>\$10,000</u>
TOTAL REVENUES	\$118,696	\$1,615,014
RESERVES	\$12,347	\$1,064,996

The proposed annual assessments were calculated by an assessment engineer for parcels within the district and are based on each parcel's equivalent benefit unit (EBU), which is equivalent to one single family dwelling unit. Properties within the proposed district will be assessed based on the rate of development, land use, and proximity to the improvements. The maximum assessments rates per EBU for these improvements will vary. Based on Fiscal Year 2006 cost estimates, the cost per EBU will range between \$188 to \$297.

FISCAL IMPACT:

Approximately \$118,696, will be assessed to the property owners within the District in Fiscal Year 2006. The proposed Fiscal Year 2006 assessments and maximum authorized assessments are permitted to increase annually at a rate equivalent to the San Diego Consumer Price Index – Urban (SDCPI-U) plus 3%. A gas tax contribution for the General Benefit of landscaped and hardscaped median maintenance in the District will be requested as part of the Fiscal Year 2007 budget process. At build out, the amount is calculated to be \$134,656. The General Fund will not be impacted as there are no City-owned parcels located within the District.

Oppenheim/Medina/AWF

Staff: Andrew Field – (619) 533-6778

FILE LOCATION:

MEET

COUNCIL ACTION:

(Time duration: 2:27 p.m. – 2:28 p.m.)

MOTION BY COMMON CONSENT TO RETURN THIS ITEM TO THE CITY MANAGER DUE TO CALCULATION ERRORS. Passed by the following vote: Peters-yea, District 2-vacant, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, District 8-vacant, Mayor-vacant.

ITEM-250: **Notice** of Pending Final Map Approval – 10006 Maya Linda Road.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “10006 Maya Linda Road” (T.M. No. 111668/PTS No. 71754), located southeasterly of Black Mountain Road and Maya Linda Road in the Mira Mesa Community Plan Area in Council District 5, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-251: Notice of Pending Final Map Approval - Pegasus.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “Pegasus” (T.M. No. 6861/PTS No. 48393), located northwesterly of Black Mountain Road and Galvin Avenue in the Mira Mesa Community Plan Area in Council District 5, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-252: Notice of Pending Final Map Approval – 4230 Montalvo.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “4230 Montalvo” (T.M. No. 40475/PTS No. 76946), located southeasterly of Camulos Street and Montalvo Street in the Peninsula Community Plan Area in Council District 2, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.

ITEM-253: Notice of Pending Final Map Approval – The Grand Del Mar.

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled “The Grand Del Mar” (T.M. No. 7383/PTS No. 63575), located southeasterly of SR 56 and Carmel Country Road in the Del Mar Mesa Community Plan Area in Council District 1, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

(1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.

(2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.

(3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Deputy City Engineer Lee Hennes at (619) 446-5291.



[ITEM-S400](#): Policy Direction Regarding Provision of Defense for Defendants in Case No. GIC 854373 City of San Diego vs. Murphy, Zucchet, Inzunza, et al.

(Continued from the meeting of October 10, 2005, Item 203, at the request of City Attorney Aguirre, for further review.)

CITY MANAGER'S RECOMMENDATION:

Consider the request for provision of a defense, and provide direction regarding **either** Subitem A or Subitem B, as follows:

Subitem-A: (R-2006-) NOTED AND FILED

Declaring that the City of San Diego shall provide for the defense of the individuals named in the Civil Action, City of San Diego v. Murphy, et al.; including Richard Murphy, Michael Zucchet, and Ralph Inzunza (Case No. GIC 854373);

Directing the City Attorney to prepare the appropriate Resolution associated with the Council direction.

Or

Subitem-B: (R-2006-) NOTED AND FILED

Directing the City Attorney to dismiss the Civil Action, City of San Diego v. Murphy, Zucchet, Inzunza, et al; and authorizing the City Manager to pay the Attorney's fees incurred to date by the defendants;

Directing the City Attorney to prepare the appropriate Resolution associated with the Council direction.

CITY MANAGER SUPPORTING INFORMATION:

On September 23, 2005, the San Diego City Attorney filed a Civil Action in the Superior Court of California entitled City of San Diego v. Murphy, Inzunza, Zucchet, et al., Case No. GIC 854373. Former Mayor Murphy and Councilmembers Inzunza and Zucchet are named as defendants in the action which alleges that these individuals, in their capacities as Mayor and City Councilmen, participated in City Council votes related to payment of pension benefits via the Legislative Officers/Elected Officers Retirement Plan that were not in compliance with the City Charter and that certain votes violated the Liability Limit Laws (Article XVI Section 18 of the California Constitution and San Diego Charter Section 99). The Complaint also alleges that certain votes violated the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (PRA).

A request has been tendered, on behalf of the defendants named in this action, for the City of San Diego to provide for their legal representation consistent with the provisions of Government Code Section 995 which provides for defense of any civil action on account of an act or omission in the scope of his or her employment as an employee of the City. Government Code Section 995.2.b specifies that upon receiving a written request, the public entity shall, within 20 days, inform the employee whether a defense will be provided.

A court ruling on Friday, September 30, 2005, in the case of People v. Grissom, et.al, found that voting on pension-related issues cannot, as a matter of law, support a conflict of interest claim under the PRA. Based on this court ruling, the City Council could consider directing the City Attorney to dismiss the Civil Action - City of San Diego v. Murphy, Zucchet, Inzunza, et. al. which will cease the accrual of any defense costs for which the City may be obligated. The City Manager is requesting Council direction with respect to the request made on behalf of the named defendants. If the Council declares the intent to provide a defense, the City Manager will retain and oversee outside Counsel up to his authorization limit of \$250,000.

Irvine/Plank

FILE LOCATION:

MEET

COUNCIL ACTION:

(Time duration: 3:29 p.m. – 4:26 p.m.)

Motion by Peters to adopt the Resolution in Subitem A to direct the City Manager to provide the defense within his authorization limit, and to note and file the Resolution in Subitem B. Second by Madaffer. Failed. Yeas-1,3,4,7. Nays-5,6 nay. Vacant-2,8,M.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Deputy Mayor Atkins at 5:40 p.m. in honor of the memory of:

James Smith as requested by Council Member Maienschein.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:39 p.m. – 5:40 p.m.)